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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Enhancing the effectiveness of the principle of periodic and genuine elections

Report of the Secretary-General

(Prepared pursuant to General Assembly resolution 45/151)

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I. INTRODUCTION

1. In its resolution 45/151 of 18 December 1990, entitled "Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes", the General Assembly, inter alia, affirmed that it was the concern solely of peoples to determine methods and to establish institutions regarding the electoral process, as well as to determine the ways for its implementation according to their constitutional and national legislation, and that any extraneous activities that attempted, directly or indirectly, to interfere in the free development of national electoral processes, in particular in the developing countries, or that intended to sway the results of such processes, violated the spirit and letter of the principles established in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations. Also, in the same resolution the Assembly strongly appealed to all States to abstain from financing or providing, directly or indirectly, any other form of overt or covert support for political parties or groups and from taking actions to undermine the electoral processes in any country; called upon the Commission on Human Rights, at its forty-seventh session, to give priority to the review of the fundamental factors that negatively affected the observance of the principle of national sovereignty and non-interference in the internal affairs of States in their electoral processes, and to report to the General Assembly at its forty-sixth session, through the Economic and Social Council; and requested the Secretary-General to report to the General Assembly at its forty-sixth session on the implementation of the resolution under the item entitled "Enhancing the effectiveness of the principle of periodic and genuine elections".

2. On 15 February 1991, a note verbale was sent by the Secretary-General to all Governments inviting them to submit any relevant information in accordance with resolution 45/151, as well as with General Assembly resolution 45/150 of 18 December 1990, entitled "Enhancing the effectiveness of the principle of periodic and genuine elections".

3. The report prepared by the Secretary-General pursuant to General Assembly resolution 45/150 is contained in document A/46/609 and Add.1.

4. The present report contains a summary of action taken by the Commission on Human Rights at its forty-seventh session pursuant to paragraph 9 of General Assembly resolution 45/151 and excerpts from the replies received from Governments whch are relevant to the subject-matter of that resolution.

II. SUMMARY OF ACTION TAKEN BY THE COMMISSION ON HUMAN RIGHTS AT ITS FORTY-SEVENTH SESSION

5. At its forty-seventh session, held from 28 January to 8 March 1991, the Commission on Human Rights considered, under various items on its agenda, a number of country situations which involved questions relating to the organization and holding of elections. Although no specific action to review "the fundamental factors that negatively affect the observance of the principle of national sovereignty and non-interference in the internal affairs of States in their electoral processes", as requested by the General Assembly in its resolution 45/151, was taken by the Commission at its forty-seventh session, in a number of its resolutions references were made to the issue of elections in the context of guaranteeing the free expression of the will of people and ensuring respect for national sovereignty and non-interference in the internal affairs of the States concerned.

6. Thus, the Commission on Human Rights, in paragraph 7 of its resolution 1991/4 and paragraph 5 of its resolution 1991/78, relating to the situation in Afghanistan, emphasized the need for an early start of the intra-Afghan dialogue for the establishment, through democratic procedures acceptable to the Afghan people, including free and fair elections, of a broad-based Government to ensure the broadest support and immediate participation of all segments of the Afghan people, and urged all parties concerned to reiterate efforts in order to achieve a comprehensive political solution based on the free exercise of the right to self-determination by the people of Afghanistan through democratic procedures acceptable to the Afghan people, including free and fair elections.

7. In paragraphs 11 and 18 of its resolution 1991/21 on the situation of human rights in South Africa, the Commission on Human Rights called for negotiations in which all the parties concerned would agree on transitional arrangements to a democratic order, including modalities for a new constitution and the holding of elections.

8. In Commission on Human Rights resolution 1991/75 on the situation of human rights in El Salvador (para. 10), resolution 1991/76 on the situation of human rights in Albania (para. 3) and resolution 1991/77 on the situation of human rights in Haiti (para. 3), the importance of a democratic electoral process was strongly emphasized.

9. Lastly, in its resolution 1991/79 on strengthening of United Nations action in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity, the Commission on Human Rights made a more general statement by reiterating that, by virtue of the principle of equal rights and self-determination of peoples, all peoples had the right to determine freely, without external interference, their political status and to pursue their economic, social and cultural development and that every State had the duty to respect that right within the provisions of the Charter of the United Nations, including respect for territorial integrity.

III. REPLIES RECEIVED FROM GOVERNMENTS

ARGENTINA

[Original: Spanish]

[6 September 1991]

Democracy and social justice make it possible to achieve lasting acceptance of the values and aspirations of peoples and an irrevocable commitment to the promotion and defence of their human rights. Each nation has the right, freely and without external interference, to choose its political status and to determine its economic, social and cultural system.

CHINA

[Original: English]

[11 July 1991]

The Government of China has always maintained that the political, social, legal as well as electoral systems of a country are internal affairs of this country and should be established in accordance with the legislative procedure of the country. According to the purposes and principles of the Charter of the United Nations, the United Nations does not have the mandate and authority to intervene in the internal matters, including electoral matters, of its Member States.

COLOMBIA

[Original: Spanish]

[27 May 1991]

1. Colombia upholds the principle of the Charter of the United Nations, based on the right of all peoples, freely and without external interference, to determine their political status and to pursue their economic, social and cultural development, and on the duty of every State to respect that right.

2. Colombia's relations with the community of nations are constantly guided by the principles that guarantee civilized coexistence among peoples. Defence of and respect for international law, the legal equality of States, the peaceful settlement of disputes, respect for pluralism, rejection of the use of force and, above all, non-intervention and the self-determination of peoples are the principles that guide our international policies.

CUBA

[Original: Spanish]

[16 July 1991]

1. In the Cuban Government's view, any analysis of this question must of necessity begin with recognition of the principle of equal rights and self-determination of peoples, which is the cornerstone of the Charter of the United Nations and of the other international instruments derived therefrom. This principle, therefore, includes the right of all peoples and nations, freely and without external interference, to determine their political status and to pursue their economic, social and cultural development.

2. In this connection, electoral processes have always been construed as matters falling strictly within the domestic jurisdiction of States and as fundamental and legitimate expressions of their political sovereignty.

3. Accordingly, my Government once again affirms that it is the concern solely of peoples to determine methods and to establish institutions regarding the electoral process, as well as to determine the ways for its implementation according to their constitution and national legislation. This affirmation is based on the understanding and the conviction, which my Government shares, that there is no single political system or single model for electoral processes equally suited to all nations and peoples, since electoral processes are subject to historical, political, cultural and religious factors. There would be no room for international coexistence in a civilized world if each Government demanded that others adopt a form of organization identical to its own.

4. Thus, any activity that attempts, directly or indirectly, to interfere in the free development of national electoral processes, in particular in the developing countries, or that intends to sway the results of such processes, violates the spirit and letter of the principles established in the Charter and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations. As a result, there can be no doubt that such processes are not in any way a legitimate sphere for intervention or participation by other States, either bilaterally or through any multilateral structure, including the United Nations.

5. From this standpoint, which is based on international law, the Cuban Government has rejected, and will continue to reject, any initiative concerning national electoral processes which seeks to establish legislative bases or structures legitimizing and justifying interference in matters within the domestic jurisdiction of States and subjecting national institutions and indigenous political practices to pre-established foreign models that are contrary to national sovereignty.

6. It is a well-known fact that some powerful countries provide substantial financial resources and various kinds of "technical assistance" to political parties and electoral candidates in developing countries, as a means of interference and in order to impose their own models and governments on such countries, in flagrant violation of all the norms of international law. Those who, in one way or another, are the victims of such a policy cannot allow the United Nations to become a tool of the hegemonic goals pursued by that policy. In any case, it is incumbent upon the Organization to reject such practices and to appeal to all States, firmly and unequivocally to abstain from financing or providing, directly or indirectly, any other form of overt or covert support for political parties or groups or electoral candidates, and from taking actions to undermine the electoral processes in any country.

CZECHOSLOVAKIA

[Original: English]

[16 July 1991]

1. The Government of the Czech and Slovak Federal Republic considers the full realization of the principle of periodic and genuine elections as one of the most efficient guarantees for a democratic and pluralistic society and respect for the human rights of all its individuals. The recent historical experience of the Czech and Slovak peoples, characterized by the 40 years of existence of the one-ruling-party political system, with its consequent negative impact on democracy and human rights, has brought Czechoslovakia to this conclusion.

2. The said historical experience has also proved that not only the equal opportunity provided for every citizen to participate in elections is important, but the possibility of every individual to express his or her will freely without any interference is also an indispensable precondition for the realization of the right to take part in the government of his or her country, as set forth, inter alia, in article 21 of the Universal Declaration of Human Rights, as well as in article 25 of the International Covenant on Civil and Political Rights.

ECUADOR

[Original: Spanish]

[5 September 1991]

1. Electoral processes are the internal affair of each State; they are an inalienable expression of its sovereignty and an exclusive manifestation of its internal authority and jurisdiction. This is an indisputable principle of the doctrine and practice of international law which must be respected and strengthened in all its aspects and in all circumstances. Any election is a

formal political expression of democracy, responding to the internal components of each society, and must be undertaken in complete freedom and independence, without external influences of any kind.

2. Any outside participation in a country's electoral processes would be contrary to the very concept of democracy and both a violation of the universal principle of non-intervention and an attack on the sovereignty of each country. It is precisely the principle of the sovereign equality of all Members of the United Nations, enshrined in Article 2 (1) of the Charter of the United Nations, which guarantees the right of each State freely to choose its Government and its system of political organization.

INDONESIA

[Original: English]

[19 July 1991]

No one pattern or system of general election exists that can be applied to all States. The electoral process is specific to each State's national situation and socio-cultural conditions, as well as its historical background. All States should respect the electoral system or method used in each State in accordance with that State's national laws and legislation. No extraneous attempts should be made to interfere with or influence the results of the electoral process in any country.

JAPAN

[Original: English]

[16 July 1991]

United Nations electoral assistance should be provided only with the support of the people and government of the country concerned. Interference in the internal affairs of a country is never permissible.

MAURITIUS

[Original: English]

[22 May 1991]

It is impossible to have one common language for the whole human race; it is therefore not irrational to conclude that it is humanly difficult - if not impossible - to have only one electoral system suitable to every country of the world. There should be some sort of tolerance, provided human needs and values are recognized and respected. A State should not be hampered in any

way in its proper form of government by interference from the outside, that is, from other Powers; its decisions should be sovereign and any attempt at clogging its domestic policy may be viewed as an arrogant move towards dictatorship.

MEXICO

[Original: Spanish]

[20 June 1991]

1. How and when States choose to organize, hold and assess electoral processes is a matter falling exclusively within their domestic jurisdiction.

2. The Government of Mexico considers that one of the great advances in the world today is the spread of democratic forms of government. That process has taken place in several parts of the world, where different but genuinely democratic political systems have been evolving. The Government of Mexico deems it vital that the right of each nation to choose its own political system, on the basis of its own national character and history, be respected.

PERU

[Original: Spanish]

[12 August 1991]

It should be borne in mind that any action taken by the United Nations with regard to the holding of periodic and genuine elections must recognize and accept the existence of diverse cultures and political systems and diverse cultural characteristics and heritages and must therefore be without prejudice to each people's sovereign right to choose its own system of government. On the other hand, the promotion of democracy also depends on an external environment that is conducive to economic development and social justice.

VENEZUELA

[Original: Spanish]

[21 June 1991]

1. There is also no question that all States enjoy sovereign equality and that each State has the right freely to choose its political system and to develop its economic and social institutions, since there is no single political system or electoral method that is equally suited to all nations and their peoples.

2. Such principles, whose validity cannot be questioned, are in no way incompatible with or contradictory to the principles and obligations enshrined in, inter alia, the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

3. This free and effective exercise of suffrage is today increasingly threatened by the action of internal elements rather than by any foreign intervention. This is all too often true in the developing countries.

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Corrigendum

Pages 2 and 8

The entry for Japan in the contents and in the replies received from Governments should be deleted.

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